

UNITED STATES DISTRICT COURT  
DISTRICT OF RHODE ISLAND

_____	)	
LISA COSTA,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Civil Action No.: 1:22-cv-317
	)	
HOME DEPOT U.S.A., INC., and	)	
JOHN DOE #1,	)	
	)	
Defendants.	)	
_____	)	

**NOTICE OF REMOVAL**

TO THE HONORABLE JUDGES OF THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF RHODE ISLAND:

Defendant Home Depot U.S.A., Inc. (hereinafter, "Home Depot"), respectfully gives notice it has removed the above-entitled action to the United States District Court for the District of Rhode Island from the Superior Court of the State of Rhode Island, Providence County, and for its Notice of Removal state as follows:

1. Home Depot is named in a civil action filed and pending in Providence County Superior Court entitled Lisa Costa v. Home Depot U.S.A., Inc. et al, C.A. No. PC-2021-04233. A true and accurate copy of the Complaint and Summons (served on August 10, 2022) are attached hereto as **Exhibit A**.

2. In her Complaint, Plaintiff alleges that on or around July 24, 2020, while shopping at Home Depot's Middletown, RI store, a Home Depot employee negligently struck her with a plastic pipe causing her to immediately fall and suffer permanent and significant injuries.

3. Plaintiff is a resident of the Commonwealth of Massachusetts.

4. Home Depot is a foreign corporation organized under the laws of the State of Delaware with a principal place of business in Atlanta, Georgia.

5. The action is pending in Providence County Superior Court located in Providence, Rhode Island, and the events giving rise to this action occurred in Rhode Island. Accordingly, under 28 U.S.C. §§120 and 1441(a), the United States District Court for the District of Rhode Island is a proper forum for removal.

6. “The district courts shall have original jurisdiction of all civil actions where the matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs, and is between— (1)citizens of different States.” 28 U.S. Code § 1332.

7. Complete diversity exists, because the Plaintiff is a resident and citizen of the Commonwealth of Massachusetts and Home Depot is citizen of the State Georgia.

8. Plaintiff claims that her damages exceed \$75,000, exclusive of interest and costs.

9. A party seeking removal must establish that there is “reasonable probability” that the claim exceeds the sum or value of \$75,000. Porter v. American Heritage Life Ins. Co., 956 F. Supp. 2d 344, 346 (D.R.I., 2013). The amount in controversy may be discerned from the face of the complaint or by “[t]aking notice of amounts recovered by plaintiffs in similar cases in a similar locality.” Stewart v. Tupperware Corp., 356 F.3d 335, 339-40 (1st Cir. 2004).

10. While Plaintiff has not specifically designated an amount in her Complaint, she seeks damages consisting of continuing and permanent pain and suffering, continuing medical expense, and loss of earning capacity attributable to the incident at issue. Plaintiff has refused to concede that her damages to not exceed \$75,000 in order to avoid removal of this action.

11. The United States District Court for the District of Rhode Island has original jurisdiction over this action, because there is complete diversity among parties and the amount in controversy exceeds the jurisdictional threshold of \$75,000. *See* 28 U.S. Code § 1332.

12. Home Depot files this Notice of Removal within thirty (30) days of its service of the Complaint on August 10, 2022, within thirty (30) days of the date this action became removable, and within the time for filing this Notice. *See* 28 U.S.C. §1446.

13. Defendants will file a copy of this Notice with the Clerk of the Providence County Superior Court, and will serve a copy of the Notice of Removal on all other parties.

14. Home Depot will file a certified or attested copy of the state court record with this Court within fourteen (14) days after the filing of this Notice, or as soon as received from the Clerk of the Superior Court.

**WHEREFORE**, Defendant Home Depot U.S.A., Inc. give notice that the above action now pending in Providence County Superior Court is removed to United States District Court for the District of Rhode Island.

Respectfully submitted,

**THE DEFENDANT,  
HOME DEPOT U.S.A., INC.,**

By its attorneys,

/s/ Caroline B. Lapish

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Dated: August 30, 2022

**CERTIFICATE OF SERVICE**

I hereby certify that on this date the foregoing document(s) filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those parties which are as non-registered participants as well as to counsel of record in the state court proceedings:

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/s/Caroline B. Lapis

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